Joint Public Notice

U.S. Army Corps of Engineers, Norfolk District
Virginia Department of Environmental Quality

CENAO-TS-REG
04-R3979

February 17, 2005

JOINT FEDERAL/STATE PUBLIC NOTICE

The District Engineer and the Virginia Department of Environmental Quality have received a prospectus to establish a compensatory wetland mitigation bank for Federal and State permits as described below:

BANK SPONSOR
King William Stream Mitigation Bank
King William Land Development
1056 Richmond-Tappahannock Highway
Manquin, Virginia 23106

WATERWAY AND LOCATION OF THE PROPOSED WORK: The proposed bank, known as the King William Stream Mitigation Bank (KWSMB), would be located on Route 360 (Richmond-Tappahannock Highway) approximately 1.2 miles east of the Pamunkey River in King William County, Virginia. The site is situated immediately south of Route 360 on an unnamed tributary to the Pamunkey River. The Bank is located within the York River drainage basin.

PROPOSED WORK AND PURPOSE: The applicant or bank sponsor, King William Stream Mitigation Landbank, L.L.C., proposes to establish a self-sustaining, functional stream system to replace the functional values of streams and other aquatic resources anticipated to be adversely affected within the authorized service area.

Development of the proposed bank will involve the restoration of approximately 1,860 linear feet of stream channel, preservation of approximately 1,209 linear feet of stream channel and preservation/enhancement of a 100-foot wide forested buffer. The stream restoration will be accomplished by constructing a new stream channel adjacent to the channelized reach based on the geomorphic characteristics (e.g. width, depth, sinuosity) of a reference reach on the preserved stream channel within the Bank. A permanent diversion will be installed in the existing channel to divert the stream flow into the restored channel, while the existing channelized reach will be filled and abandoned. A 100-foot buffer will be preserved or enhanced with native riparian species, as necessary, to establish the Resource Protection Area (RPA) buffer along this perennial stream system.

The sponsor has proposed for purposes of Section 404 of the Clean Water Act that the geographic service area of this stream mitigation bank would consist of those areas within the USGS Hydrologic Unit Codes known as 02080106, and the following adjoining hydrologic units: 02080105 and 02080107. This includes all or portions of Orange County, Spotsylvania

County, Caroline County, King and Queen County, Hanover County, King William County, New Kent County, James City County, York County and Gloucester County.

For purposes of state wetland regulations, the proposed geographic service area will be consistent with the Code of Virginia as it relates to mitigation banking.

Oversight of this stream mitigation bank will be by a group of federal and state agency representatives known as the Mitigation Bank Review Team (MBRT). The MBRT shall be chaired by the Norfolk District of the U.S. Army Corps of Engineers.

This stream mitigation bank may be one of a number of practicable options available to applicants to compensate for unavoidable stream impacts associated with permits issued under the authority of Section 404 and 401 of the Clean Water Act (Public Law 95-217) in southeastern Virginia. The actual approval of the use of this stream mitigation bank for a specific project is the decision of the Corps pursuant to Section 10 of the Rivers and Harbor Act and Section 404 of the Clean Water Act and by the Department of Environmental Quality pursuant to Section 401 of the Clean Water Act and Title 62.1 of the Code of Virginia. The Corps and the Department of Environmental Quality provide no guarantee that any particular individual or general permit will be granted authorization to use this stream mitigation bank to compensate for unavoidable stream impacts associated with a proposed permit, even though compensatory mitigation may be available.

AUTHORITY: A Public Notice is recommended pursuant to Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Federal Register Number 228).

FEDERAL EVALUATION OF PROPOSAL: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate this proposed stream mitigation bank. Any comments received will be considered by the Corps of Engineers in evaluating this proposal. Comments are used to assess impacts on endangered species, historic properties, water quality, conservation, economics, aesthetics, general environmental concerns, wetlands, fish and wildlife values, flood hazards, flood plain values, land use classification, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, and consideration of property ownership.

Preliminary review indicates that: (l) no environmental impact statement will be required; (2) no species listed as endangered or threatened under the Endangered Species Act of 1973 (PL 93-205) will be affected; and (3) archaeological and architectural sites considered eligible or potentially eligible for listing on the National Register of Historic Places have not been found within the project area. Additional information might change any of these preliminary findings.

STATE EVALUATION OF PROPOSAL: To comply with Section 401 of the Clean Water Act (the Act), any applicant for a Corps permit for a proposal which may result in a discharge to State waters must provide the Corps with a certification from the Virginia Department of Environmental Quality, Water Division. They must certify that water quality will be maintained in accordance with Virginia Department of Environmental Quality, Water Division Law (state law) and that the activity will comply with the applicable provisions of Sections 301, 302, 303, and 306 and 307 of the Act. A certification must set forth any effluent limitations and other limitations, conditions and/or requirements needed to assure compliance with the Act itself and with other appropriate requirements of state law. In Virginia, the 401 Water Quality Certification is issued as a Virginia Water Protection Permit.

COMMENT PERIOD: Comments or requests for copies of the bank prospectus should be made in writing, addressed to Ms. Alicia G. Riley, US Army Corps of Engineers, Gloucester County Field Office, Post Office Box 209, Bena, Virginia 23018, and should be received by the close of business on
March 17, 2005. Copies will be forwarded to the DEQ. If you have any questions about the permit process, call one of the following people:

1. U. S. Army Corps of Engineers
   Ms. Alicia G. Riley (804) 642-0700

2 Virginia Department of Environmental Quality
   Mr. Michael Keeler (804) 698-4377

FOR THE DISTRICT ENGINEER:

Bruce F. Williams
Chief, Northern Virginia
Regulatory Section

Stream Banking Prospectus
King William Stream Mitigation Bank
King William County, Virginia

Prepared for:

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King William Land Development
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Manquin, VA 23106

Prepared by:

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December 2004

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PROSPECTUS

King William Stream Mitigation Bank

I. Introduction

A. King William Stream Mitigation Bank, LLC (hereinafter, the Bank) proposes to establish a compensatory stream mitigation bank to provide compensation for unavoidable impacts to waters of the United States in the York River drainage basin. This proposal calls for the construction of a mitigation bank on a 12.25-acre parcel situated along an unnamed tributary to the Pamunkey River in King William County, Virginia.

B. A Stream Mitigation Banking Instrument will be developed by Williamsburg Environmental Group, Inc. (WEG) to establish the bank. The Banking Instrument will contain a Bank Development Plan and include the specifications for construction, operation and maintenance of the Bank.

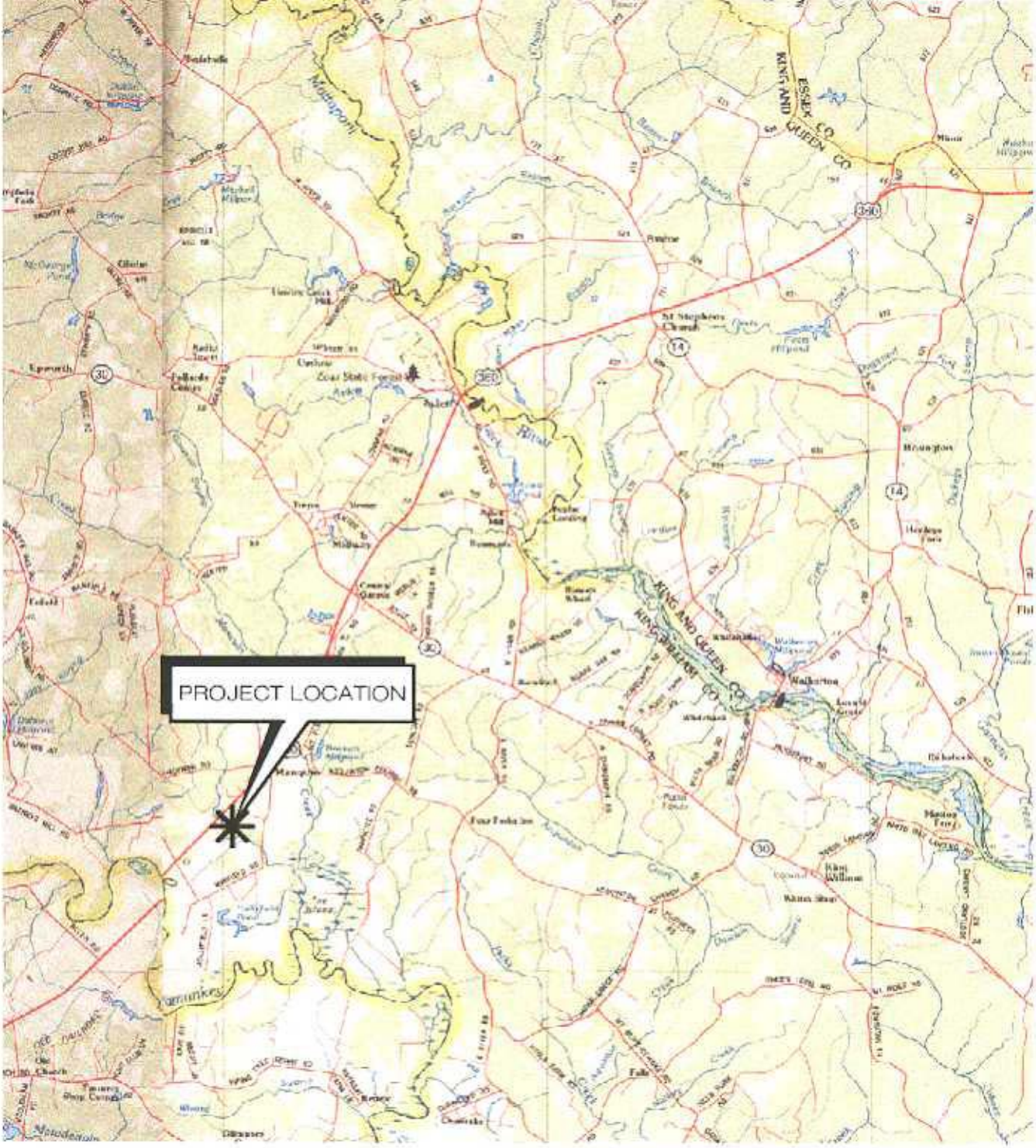
C. This Banking Instrument and the development and operation of the Bank will be in accordance with the "Federal Guidance for the Establishment, Use and Operation of Mitigation Banks", published in Volume 60, Number 228 of the Federal Register, November 28, 1995, and referred to hereafter as Federal Banking Guidance.

II. Site Description

A. The Bank, which encompasses approximately 12.25 acres, is located on Route 360 (Richmond-Tappahannock Highway) approximately 1.2 miles east of the Pamunkey River in King William County, Virginia (Figure 1-1). The site is situated immediately south of Route 360 on an unnamed tributary to the Pamunkey River. The Bank is located within the York River drainage basin.

B. The Bank Resource Limits contain approximately 1.1 acres of existing wetlands, 10.4 acres of riparian buffer, and roughly 3,741 linear feet of stream channels.

C. Based on the United States Geological Survey (USGS) Quadrangle for Manquin, Virginia (1968, Revised 1987), elevations on the site range between 40 to 50 feet above mean sea level. Slopes across the majority of the site were nearly level to gently sloping, generally ranging between zero and two percent. Approximately 1,860 linear feet of the stream channel were channelized in the 1950s during construction of Highway 360 and have limited attributes of a natural stream. The channelized reach has a narrow riparian buffer, an un-natural channel alignment, poor aquatic habitat, and is deeply incised with no connection to the historic floodplain. The un-altered reaches of the stream channel retain their historical alignment. These reaches also have the attributes of a natural stream, with stable yet dynamic meanders, a well-defined rifle-pool habitat with numerous pieces of large woody debris, an active overbank floodplain, and well-vegetated stream banks.



2.4 MILES 1.2 0 MILES 2.4 MILES

SCALE: 1 INCH = 2.4 MILES

LATITUDE: 37°41'31" N
LONGITUDE: 77°10'27"W

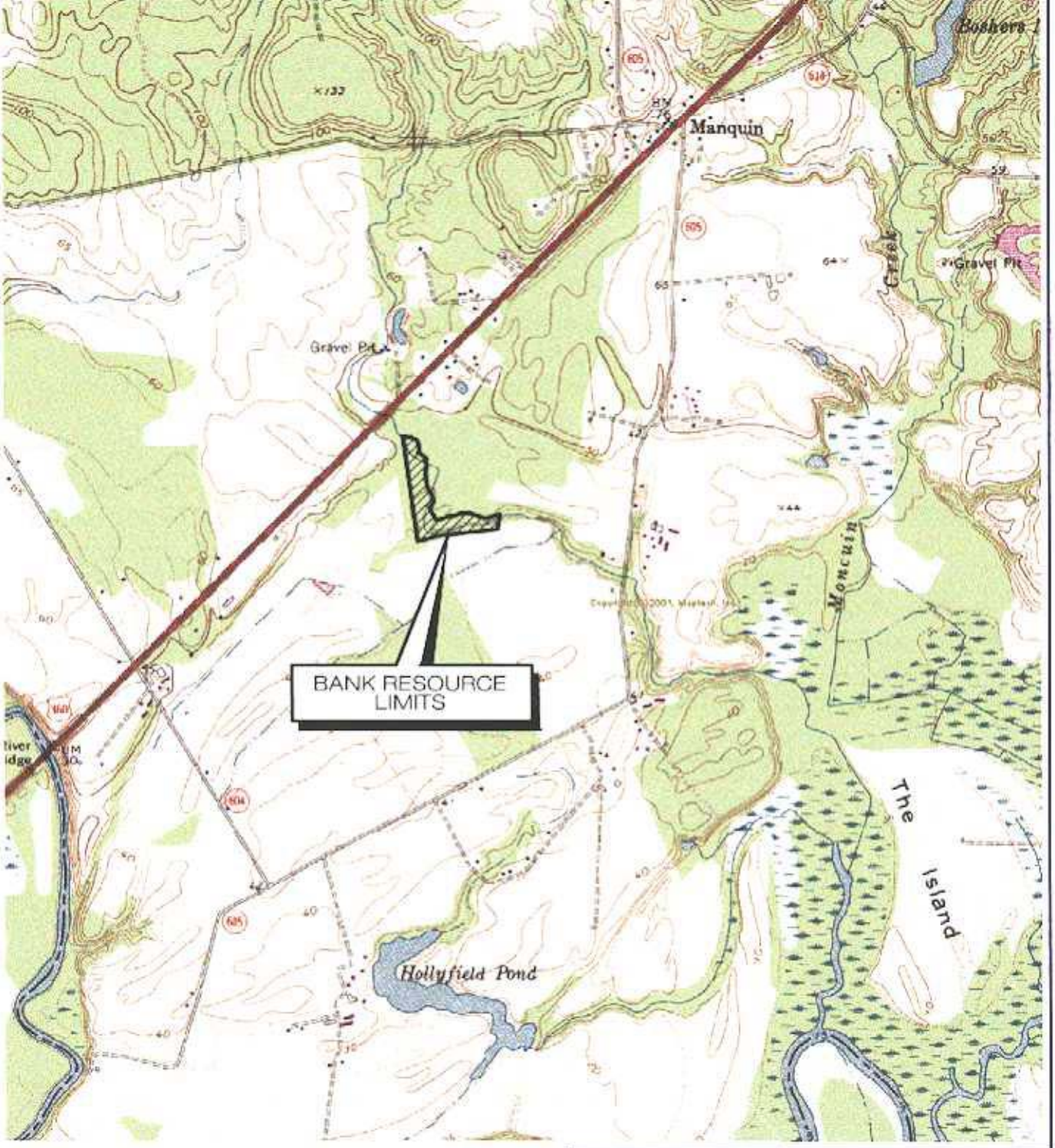
SOURCE: VIRGINIA ATLAS AND GAZETTEER,
DeLORME MAPPING CO., 1995.

WILLIAMSBURG ENVIRONMENTAL GROUP, INC.

FIGURE 1-1
PROJECT VICINITY MAP

KING WILLIAM STREAM MITIGATION BANK

KING WILLIAM COUNTY, VIRGINIA | DECEMBER 2004



2000' 1000' 0' 2000'

SCALE: 1 INCH = 2000 FEET

LATITUDE: 37°41'31" N
LONGITUDE: 77°10'27"W

SOURCE: USGS 7.5 MINUTE SERIES TOPOGRAPHIC MAP, MANQUIN, VA QUADRANGLE, 1968 (REVISED 1987)

WILLIAMSBURG ENVIRONMENTAL GROUP, INC.

FIGURE 1-2

PROJECT LOCATION MAP

KING WILLIAM STREAM MITIGATION BANK

KING WILLIAM COUNTY, VIRGINIA | DECEMBER 2004

D. Wetlands on the site were delineated by WEG during using the Routine Determination Method, as outlined in the 1987 *Corps of Engineers Wetland Delineation Manual* (Map Pocket #1: Wetland Delineation).

E. According to soil information provided by the Natural Resources Conservation Service (NRCS) for King William County, Virginia, the site is underlain primarily by Altavista loamy sand, Bibb and Kinston soils, and Tomotley fine sandy loam. The Altavista loamy sand is found in the northwest and northeast corners of the site. This soil type has 0-2% slopes and is moderately well drained. Bib and Kinston soils, considered to be hydric by NRCS, are found on the western border of the site, have 0-2% slopes, and are poorly drained. Tomotley fine sandy loam, also hydric, is the most prominent soil type within the site. It is characterized by 0-2% slopes and is also poorly drained.

III. Goals

The goal of the Bank is to establish a self-sustaining, functional stream system to replace the functional values of streams and other aquatic resources anticipated to be adversely affected within the authorized service area. In so doing, the Bank expects to satisfy a portion of the existing and prospective demand for compensation mitigation within the service area.

IV. Measures To Be Taken To Establish Bank

A. Development of the Bank will involve the restoration of approximately 1,860 linear feet of stream channel, preservation of approximately 1,209 linear feet of stream channel, and preservation/enhancement of a 100-foot wide forested buffer. The stream restoration will be accomplished by constructing a new stream channel adjacent to the channelized reach based on the geomorphic characteristics (e.g., width, depth, sinuosity) of a reference reach on the preserved stream channel within the Bank. A permanent diversion will be installed in the existing channel to divert the stream flow into the restored channel, while the existing channelized reach will be filled and abandoned. A 100-foot buffer will be preserved or enhanced with native riparian species, as necessary, to establish the Resource Protection Area (RPA) buffer along this perennial stream system. A Master Plan for the Bank is enclosed in Map Pocket #2.

B. All construction activities required to restore the stream channel and the RPA buffer will be completed during the first year of construction. This includes excavation of the new stream channel; planting and stabilization of the stream banks and the 100-foot RPA buffer with native riparian species, installation of the permanent stream diversion; placement of fill in the existing channelized stream reach; and salvage and installation of large woody debris to enhance aquatic habitat conditions.

V. Geographic Service Area

A. The proposed geographic service area for the Bank shall be consistent with Section 62.1-44.15:5(B) of the Code of Virginia and in accordance with the Federal Banking Guidance. The designated area wherein the bank can reasonably be expected to provide appropriate compensation for impacts to streams will be within the same hydrologic cataloging unit ("Hydrologic Unit Map of the United States", U.S.G.S. 1980), or in an adjacent cataloging unit. For the purpose of this document, the proposed service area includes the primary hydrologic unit 02080105 and adjacent units 02080106 and 02080107. This area includes all or portions of Orange, Louisa, Spotsylvania, Caroline, Hanover, King and Queen, King William, Gloucester, New Kent, James City, and York counties in Virginia. The final geographic service area is subject to approval by the Corps and other Mitigation Banking Review Team (MBRT) members.

VI. Criteria For Use

A. Decisions concerning project applicability, relationship to mitigation requirements, use of a mitigation bank vs. on-site mitigation, in-kind vs. out-of-kind mitigation and compensation ratio determinations will be made as part of permit decisions.

B. Decisions concerning credit withdrawal from the Bank will be made in accordance with the Federal Banking Guidance. In addition, the following general guidelines apply to the Bank. Availability of credit will be based on the level of achievement of those Goals and Objectives contained in the Banking Instrument approved by the MBRT.

1. The Bank will receive one stream credit for each linear foot of the stream channel that meets the performance criteria, based on the accepted credit ratios.

2. Debits of available credit from the bank will be based on the permit requirements of projects duly authorized. The permit requirement will normally reflect consideration of the value of the streams impacted along with the value of the compensation stream credits in the bank. Standard ratios consistent with those used by the permitting agencies for stream mitigation will be applied at the time of application.

3. Limited use of the bank for projects outside the service area will be considered by the MBRT on a case by case basis.

C. The Bank will establish and maintain an accounting system (i.e., ledger) that documents credits and debits to the bank account. Each time an approved debit/credit transaction occurs, the Bank will submit a statement to the permitting agencies. The Bank will also generate an annual ledger report to be submitted to all members of the MBRT. The ledger will be available for inspection upon request by any participating agency.

VII. Long-Term Monitoring and Maintenance

A. Decisions concerning the operational life of the bank, long-term monitoring/management, remedial actions, and financial assurances will be made in accordance with Federal Banking Guidance and approved by the MBRT.

B. Stream and buffer areas that are preserved or restored as part of the Bank and which are ultimately used for stream compensation will be provided long-term protection in the form of a perpetual legal instrument that is agreeable to the MBRT.